

CHAPTER 11
IMPROVEMENTS AND SPECIAL ASSESSMENTS

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11-01. Report on Street Improvements. The commissioner of public works of said city shall, by January 1 of each year, or as soon as practicable thereafter determine upon a general system for street improvements for the year ensuing and report the same to the common council, said report shall be advisory only and no street improvements shall be made except upon the passage of a proper resolution by the common council. After the report is made to the common council, the said system shall be carried out and not materially deviated from by the commissioner except in case of necessity. (S. 5, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)

11-02. Special Assessments for Street, Alley, Sidewalk and Gutter Improvements. The grading, graveling, macadamizing or paving to the center of any street or alley, and the grading, graveling, macadamizing, paving, sodding and curbing of any sidewalk, and the paving of any gutter, shall be chargeable to and payable by the lots fronting or abutting upon such street, alley, or gutter, or fronting, abutting, or adjacent to such sidewalk, to the amount which such grading, graveling, macadamizing, paving, sodding and curbing shall be adjudged by said commissioner to benefit such lots. The expense of all such improvements of work across streets at their intersection with streets and alleys, excepting sidewalks, and the expense of all such improvements for work across public grounds, and to the middle of streets and alleys adjacent to public grounds, and the construction of all crosswalks, shall be paid out of the funds appropriated for such purpose, except that the cost of the work and material for paving and the cost of grading any such street or alley intersection and for the long side of any corner

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lot for the initial city of Milwaukee pavement may be assessed proportionately against any lots in the blocks touching on any such intersection to the amount such work shall be adjudged by the commissioner of public works to benefit such lots. After a street, alley or gutter has been constructed to the grade established by the common council and graveled, paved or macadamized in compliance with the order of the proper city authorities, the expense of maintaining, repaving, keeping in repair and cleaning such street, alley or gutter, and the pavement or other surface thereof, and of any other subsequent improvement of such street, alley or gutter, shall be paid out of the funds appropriated for such purpose provided, however, that when a street or alley which has been graveled or macadamized is ordered to be paved, the expense of such paving shall be chargeable to and payable by the lots fronting or abutting upon such street or alley to the amount which such paving shall be adjudged by said commissioner to benefit such lots as hereinbefore provided for the improvement of a street or alley; and further provided that when a change in the grade of any street or alley shall be ordered, the expense of cutting or filling incurred by such change of grade shall be chargeable to and paid by the lots fronting or abutting on the street or alley of which the grade shall be so changed; and provided further, that this section in relation to the maintaining, repaving, keeping in repair and cleaning of streets, alleys and gutters shall not apply to the laying, relaying, cleaning, sodding, curbing, repairing or grading of sidewalks. (S. 6, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)

11-03. Tree Borders. That portion of the street lying between the curb and the sidewalk, also known as the tree border, of any premises or property in the city of Milwaukee fronting on a street, the grade of which shall have been established, shall be leveled with the grade and seeded. In the event of the failure of the owner for a period of more than 30 days after being notified by the commissioner of public works so to do, the common council may by resolution direct the commissioner of public works to cause said plot to be graded and seeded and he shall keep an account of such

work and he shall certify to the city comptroller the description of land, lots, parts of lots or parcels of land abutting on the street, avenue or boulevard in which any such work shall have been done, and the amount chargeable to each such piece of property; and the comptroller at the time of making his annual report to the common council of the lots or parcels of land subject to special assessments, shall include therein the lots or parcels of land so reported to him by the commissioner of public works with the amount chargeable thereto for work done during the preceding year, and the common council shall then levy and assess the same on the several lots or parcels of land described in said schedule and direct the proper officers to enter the several amounts set forth in said schedule on the next or subsequent tax roll and collect the same as a special tax against such lot or parcel of land and the said tax shall be a valid charge and lien against such lots, parts of land or parcels of land and the same shall be collected in all respects like other city taxes upon real estate. (S. 1, Ch. Ord. 5, File #30656, Nov. 9, 1925.)

11-04. Navigable Canals. The construction of the public navigable canals in said city; including the canals, water channels, and slips, laid out and established in the valley of the Menomonee river -- shall include all such excavations, dredging, and docking, as the common council shall by ordinance or resolution in its discretion require, to make the same suitable and convenient for navigation. The commissioner of public works shall, from time to time, with the approval of the common council, order the construction of the canals, water channels, and slips, in the valley of the Menomonee river, and shall cause the same to be done as they may deem necessary for the public interests, in accordance with the system of canals, water channel and slips, established in said valley pursuant to chapter ninety-one of the local laws of 1869. Whenever they shall order any portion of such work to be done, like proceedings shall be had as are provided by this chapter in case of grading streets; and the expense of such construction shall be apportioned by the commissioner of public works among, and shall be a charge and lien upon, the several lots or parcels of land extending to and abutting on said canals, water

channels or slips respectively, in proportion to the amount of work done opposite to such lots or parcels of land to be estimated by the city engineer, and shall be collected as other special taxes are levied and collected by and under this act, but no work in the construction of such canals, water channels or slips shall be ordered by said commissioner except on the petition in writing of the persons owning land adjoining the work to be done, to the extent of a majority of the lineal feet of such land, measured on the line of such proposed work; but in case any portion of such adjoining land is owned by persons not residents of the said city of Milwaukee, the said commissioner may order such work to be done on the petition of persons owning a majority of the lineal feet of such land owned by residents of the said city, measured on the line of such proposed work. (S. 4, Subch. 7, Ch. 184, L. 1874, as mod. by Ch. 297, L. 1907.)

11-05. Docking and Dredging. The docking and dredging of the Milwaukee, Menomonee and Kinnickinnic rivers, and of the public canals in said city, after their construction, opposite to any street or to public grounds abutting thereon, and the dredging of the middle ground of said rivers, and of said canals after their construction, further than 50 feet from either dockline shall be done at the cost of the city. The board of harbor commissioners, subject to the approval of the common council, shall have the power and is authorized and it shall be its duty when ordered by the common council, without petition in that behalf, to cause the Milwaukee, Menomonee and Kinnickinnic rivers, or any portion thereof, to be docked and dredged, and to proceed therein in like manner as in cases of grading and improving streets, to make the expense of reconstructing and repairing the docks of the rivers and canals in said city, and so much of the expense as is not chargeable to the city a lien and charge upon the lots and parcels of land, extending to and abutting on said rivers respectively. (S. 1, Ch. Ord. 111, File #70404 Dec. 2, 1940.)

11-06. Special Assessments Along Waterways. 1

SPECIAL ASSESSMENTS FOR WORK ALONG BANKS AND RIVERS; REDREDGING.

a. The construction and keeping in repair of harbors, docks, wharves and revetments in front of lots or parcels of land along the banks of rivers and public navigable canals in any city of the first class of this state, and the dredging of such rivers and canals to a width of not to exceed fifty feet from their docklines toward the centers shall be chargeable to and payable by the lots and parcels of land so fronting a river or public navigable canal in any such city.

b. After a river or navigable canal in any such city has been properly docked conformable to specifications made and filed in the office of the commissioner of public works, or other body in charge of such department in any such city, and has been dredged to a depth of twenty-one feet below the level of such river or navigable canal as heretofore or may hereafter be established and to a width of fifty feet from its dock line towards its center, in compliance with any order of the proper city authorities, and at the expense of the lots or parcels of land abutting thereon, and has been duly accepted by the city engineer of such city, or other officer authorized to accept the same, as complying with the above requirements, the expense of redredging such rivers or canals to a width of fifty feet from such dock lines to its center shall be chargeable to and paid out of the general city fund of such city.

c. Such commissioner of public works, or other body, shall have the same authority over such rivers and canals and lands and lots fronting thereon as they have over streets and lots or lands fronting thereon, and shall be governed by the same rules with respect thereto as in case of public improvements upon streets, except repairs of the sides of docks, wharves and revetments in front of lots or parts of lots along the sides of docks, banks of rivers and navigable canals in such city, which expenses shall be a lien and charge upon the lots or parcels of land extending to and abutting on such docks, rivers and canals respectively.

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d. Provided, that the dredging chargeable to lots and lands fronting on such docks, rivers and canals shall be ordered done by any such city only when the middle portion of such rivers and canals respectively shall be dredged at the same time by the city; and provided further, that no part of the cost of construction of any of the public navigable rivers or canals of any such city shall be chargeable to the city or to any ward thereof, but the whole cost of such construction shall be chargeable exclusively to the lots and lands abutting thereon.

2. DREDGING. Whenever the government does any dredging of any navigable rivers or canals in any city of the first class partially or wholly at the expense of the federal government, in such cases the abutting property owner shall be chargeable with the dredging of the channel not to exceed fifty feet, extending from the established dockline; where there is any excess of fifty feet dredging to be done beyond that done by the United States government or chargeable to the abutting property, the expense thereof shall be paid by the city. (*S. 1 and 2, Ch. 463, L. 1909.*)

11-07. Docks. 1. SPECIAL ASSESSMENTS. Whenever in any city of the first class, whether organized under the general laws or special charter, the construction or repairing of docks along the banks of any navigable river or other navigable water in said city shall have been duly authorized, and specifications, together with an estimate of the cost of such work, have been prepared and filed, and the necessary assessments of benefits and damages against the several lots, parts of lots or parcels of land which may be deemed benefited or damaged by the proposed improvement, shall have been made and approved or confirmed, and the contract for such improvement shall have been entered into, the commissioner of public works may by notice duly published in the official newspapers of such city for six consecutive days, or if there be no such commissioner, the common council may within two weeks after the letting of such contract, by resolution determine that any owner or owners of any lots, parts of lots or parcels of land which may be assessed for benefits on account of such improvement, shall

have the option at any time within thirty days after the publication of said notice or the passage and publication of such resolution, to apply for an extension of the payment of such assessment of benefits to his or their property, by paying therefor in equal annual installments or such a period as the commissioner of public works or the common council may in such notice or resolution, as the case may be, determine, not less than five and not exceeding ten years; the first installment to become due and payable without interest immediately after the completion of the first tax sale succeeding the date of the bond hereinafter provided for.

2. INSTALLMENT PAYMENTS. Any owner or owners of any lots, parts of lots or parcels of land which may be assessed for benefits on account of any such improvement, may within thirty days after the first publication of such notice of the commissioner of public works, or of such resolution to the common council, make application to the commissioner of public works, or if there be no such commissioner, to the city clerk, for the extension of the payment of such assessment of benefits to his other property, and such application shall contain an agreement that in consideration of the privilege granted by such resolution, the applicant will make no objection to any want of power, illegality or irregularity in regard to the assessment against his property, and will pay the same in equal annual installments, together with interest upon the unpaid balances at a rate not exceeding six per cent per annum, and for such a term of years as in such notice or resolution may have been provided. Such application shall also contain a brief description of the property and a statement that the applicant is the owner thereof. After the expiration of the time within which such application may be made an assessment list shall be prepared containing a description of each piece of property, the owner or owners of which have agreed to pay for such improvement in installments, showing the amounts chargeable to such property, together with the necessary columns to which the installment assessments shall be extended, the amount of each installment and interest, and when payable, and a copy of each such assessment shall be filed with the city clerk, the city comptroller and the city treasurer.

In all cases where such agreement shall not be signed within the time limited the entire assessment shall be payable in the manner and at the time now provided for the payment of assessments on account of street or other improvements.

3. CONTRACTOR'S RESPONSIBILITY. Whenever any contract is entered into or such permanent improvement such contract shall, in addition to the requirements now provided for by law, stipulate that the contractor shall receive, to apply in payment of the contract price, dock improvement bonds upon or against the several lots, parts of lots or parcels of land, the owner or owners of which have agreed as hereinbefore provided to avail themselves of the privilege of paying for such improvement in equal annual installments; and upon the completion and performance of such contract the contractor shall receive on account and in payment for his work said bond or bonds upon or against said several lots, parts of lots or parcels of land, to an amount not exceeding the assessments of benefits against the same by reason of such improvement. (*S. 1 thru 3, Ch. 103, L. 1911.*)

4. IMPROVEMENT BONDS. After full performance of any such contract as is within the preceding section, if the owner or owners of any lot, parts of lots or parcels of land fronting or abutting on any river or other navigable waters of such city, which has been improved as therein provided, shall have applied for an extension of the time for the payment of assessments as is provided in next to the last preceding section, the commissioner of public works, or if there be no such commissioner, the city clerk, shall issue bonds against such lots, parts of lots or parcels of land for the amounts chargeable against such property, said bonds to be payable within the time limited in the notice or resolution provided for in section 1 hereof [sub. 1]. Such bonds shall be designated "Dock improvement bonds", bear the name of the river or other navigable water upon which said improvements are made, be made payable to the contractor doing the work or bearer, be negotiable, state the amount of work done by the contractor, the nature thereof and a description of the property upon which the

same is chargeable, be issued in the name of the city and countersigned by its comptroller, but neither the city nor any officer thereof shall become liable or holden for any part thereof, either principal or interest, excepting for so much as has been actually collected by the city treasurer for the payment of such part of the improvement for which such bonds have been issued. Such bonds shall bear interest at a rate not exceeding six per cent per annum from and after the first day of February succeeding the date of issue and have attached thereto coupons, each in amount equal to the annual payment due on such bond together with the accrued interest. Said coupons and bonds shall be payable at the office of the city treasurer immediately after the completion of the tax collection each year to the extent of the moneys received by him on account of the improvements for which such bonds have been issued; they shall be a first lien against any lots, parts of lots or parcels of land on account of which they were issued, and in case of failure of the payment of any installment of the interest thereon when the same becomes due, the whole amount of any such bond, together with the interest chargeable against any such lot, part of lots or parcels of land, the owner or owners of which have failed to pay the annual assessment or interest, shall, at the election of the holder of such bonds, to be exercised within thirty days after such default forthwith become due and payable and may be recovered as mortgages are foreclosed; there may also be recovered a reasonable attorney's fee and costs. The owner or owners of any lots, parts of lots or parcels of land upon which bonds are issued may, at any time, pay to the city treasurer the entire unpaid assessment and accrued interest, and receive a release of the lien and assessment against their property by paying to said treasurer, in addition to said assessment and accrued interest, interest on said bonds for the period of three months after such payment. The issuance of said bonds shall be conclusive evidence of the regularity of all previous proceedings and the validity of said lien; and no want of power, illegality or irregularity in connection with the making of such assessments or the issue of such bonds shall invalidate said bonds. (*S. 4, Ch. 103, L. 1911.*)

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5. COLLECTION BY CITY TREASURER. The proper city officer shall, in preparing the annual tax roll, enter the amount of the annual installment assessment, together with the accrued interest, against the several pieces of property on said tax roll according to the assessment list prepared and filed in the office of the city clerk for the term of years that such installment assessment list may cover and until the entire amount chargeable to such property on account of the improvement and interest thereon shall have been taxed and levied against such property; and such assessment shall be collectable by the city treasurer as other taxes are collected by him. He shall keep a separate account of the funds arising from the collection of such installment assessments and interest, and such funds shall not be diverted to the payment of any other improvement than that for which the same were collected, and enter upon each assessment list, in its proper column and place, such amounts as have been paid; such lists shall be open to the public for examination. As soon as the coupons or bonds shall have been paid by the city treasurer he shall cancel the same and turn them over to the city comptroller, by whom they shall be kept on file. (*S. 5, Ch. 103, L. 1911.*)

6. AUTHORITY. The lots, parts of lots or parcels of land fronting or abutting the aforesaid improvements shall be chargeable with the payment of the cost of the same to the extent of the benefit, which in the opinion of the commissioner of or board of public works, will actually accrue to the owner of such lots, parts of lots or parcel of land in consequence of such improvements. And the commissioner of or board of public works of such city shall have the same authority over such improvements, and the lots and lands fronting thereon, and over the navigable rivers and other navigable waters of such city as he or they now have in such cities over streets and lots or lands fronting thereon, and shall be governed by the same rules in respect thereto as in cases of improvement of streets, so far as applicable and not in conflict with this act, except that no exemption from liability for the payment of benefits for street improvements shall apply to dock improvements. (*S. 6, Ch. 103, L. 1911.*)

11-08. Procedure for Improvements. 1. ESTIMATE. Whenever the commissioner of public works shall deem it necessary to grade or otherwise improve any street, alley, sidewalk or public ground, or to erect and construct a bridge or viaduct over any ravine in said city of Milwaukee, or to dredge or dock any of the rivers or of the public canals after their first construction, or to abate any nuisance caused by stagnant water in said city, he shall cause to be made an estimate of the cost of such work, and shall put the same on file in his office, and such estimate shall be open to the inspection of any party interested.

2. PETITIONS AGAINST WORK. a. Thereupon the commissioner of public works shall make to the common council such recommendation in relation to the proposed work as the commissioner may deem proper. Upon adoption of the recommendation by the common council, in whole or in part, the commissioner may order so much of the work to be done as shall have been adopted, provided that no change of any previously established grade, and no such work, chargeable to lots and parcels of land fronting on or abutting on the same, except the grading, graveling and paving of streets, the paving of gutters and making of sidewalks, and except repairs, and docking and dredging, shall be ordered by resolution, ordinance or otherwise, unless a petition therefor shall first be presented to the common council, signed by residents of the city owning a majority of the feet in front of all the lots fronting upon such proposed improvements, owned by residents of the city. For that purpose, every person in the actual possession of any lots or parcel of land fronting upon such improvements, under a contract in force for the purchase thereof from the owner, shall be held to be a freeholder within the meaning of this section, and to be the owner of such real estate for the purpose of petitioning as owner thereof. Each person signing such petition as a resident or as the owner of property, shall be required to write after his or her signature a brief description of the property so owned, and of the place of residence in the city, and to annex thereto an affidavit that he or she is such resident and owner, and thereupon the person shall be taken

to be such resident and owner, and such petition shall be as valid and have the same effect as if the person were the owner of the property, and a resident of the city or district, as stated in the affidavit, although in fact it should thereafter appear that the person was not the owner or resident.

b. The common council may order the grading, graveling and paving of streets and alleys, the paving of gutters and the making of sidewalks, without such petition, provided, however, that in the absence of such petition, the resolution of the common council ordering the work shall have been referred by the council to one of its standing committees, and shall have been reported by such committee to the common council with their recommendation that it be adopted, before a vote shall be taken upon its adoption, and provided the resolution shall declare why it is necessary for the public interest to proceed without such petition, and shall also upon its passage be supported by the votes of 3/4 of the members of the common council at the time of the vote and the council member of the district or each district in which such grading, graveling or paving, or making of sidewalks, is done. No such resolution ordering the grading, graveling or paving of a street or streets or alley, the paving of gutters or the making of sidewalks, without a petition therefor shall be voted upon or passed at any meeting of the common council held within 2 weeks from the time of its presentation to the council, and the vote on its passage shall be taken by yeas and nays, and duly entered in the journal of proceedings. *(Sub. 2 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. April 20, 1987.)*

3. REQUEST FOR REPAIRS.

Provided, further, that whenever the commissioner of public works shall deem it necessary to pave or otherwise improve, any street, alley or gutter, or any part of any street, alley or gutter, after the same has been once constructed to the grade established by the common council, and graveled, planked, paved or macadamized, the expense of maintaining, renewing, repairing or repaving thereof, shall be a lawful and proper charge against the funds appropriated for such purpose, and a majority of the residents of said city of Milwaukee, owning a majority of the feet in front of all the

lots fronting on such proposed improvement, owned by residents of such city, shall file a petition with the said commissioner, for any payment or other improvement deemed by said commissioner to cost more than the estimate made by the commissioner, of the cost of improving said street, alley or gutter, said cost to be determined by said commissioner, it shall be the duty of said commissioner and of the common council to grant the request of such petition, and to proceed to repave, or otherwise improve, said street, alley or gutter, or any part thereof, named in said petition, according to the prayer of the petition, in the same manner as said commissioner and council are now required to maintain, renew, repair or repave any such street, alley or gutter; as the owner of property, shall be required to write after his signature thereto a brief description of the property so owned by him, and of the place of his residence in said city, and to annex thereto an affidavit that he is such resident and owner, and thereupon he shall be taken to be such resident and owner, and such petition shall be as valid and have the same effect as if such person were the owner of such property, and a resident of the city or district as stated in his affidavit, although in fact it should thereafter appear that he was not such owner or resident. The common council may order the grading, graveling and paving of streets and alleys, the paving of gutters and the making of sidewalks, without such petition, provided, however, that in the absence of such petition, the resolution of the common council ordering the work shall have been referred by the common council to one of its standing committees, and shall have been reported by such committee to the common council with their recommendation that it be adopted, provided, however, that all cost and expense of such repavement or other improvement, in case of such petition, in excess of the estimated cost of the work, made and filed in the office of the commissioner of public works, for the improvement of said street, alley or gutter, or part thereof, shall be chargeable to, and be made payable by, the lots fronting or abutting upon such street, alley or gutter, or part thereof, such excess to be apportioned by such commissioner to said lots, respectively, in

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proportion to the benefits adjudged by said commissioner to have been conferred by said repavement, or other improvements, in the same manner that the original improvement of streets, alleys or gutters are now lawfully chargeable to, and made payable by such lots; provided further, that the petition for such repavement, or other improvement, required in this act, as a condition of increased cost, shall as to form, qualification of petitioners and otherwise, conform to the requirements in case of petitions for other work chargeable to lots, and requiring a petition therefor, as provided in said s. 20, ch. 324, laws of [Wisconsin] 1882, of which section this act is in part amendatory. (*Ch. Ord. 196, File #53-3331 Apr. 20, 1954; S. 8, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.*)

11-09. Assessment of Benefits. Before ordering any work to be done by the owners of lots or lands fronting on the same, the commissioner of public works shall view the premises, and consider the amount proposed to be made chargeable against said several lots or pieces of land and the benefits which in his opinion will actually accrue to the owner of the same in consequence of such improvement, and shall assess against the several lots or pieces of land, or parts of lots or pieces of land, which he may deem benefited by the proposed improvement, the amount of such benefit which those lots or pieces of land will severally, in the opinion of said commissioner, derive from such improvement when completed in the manner contemplated in the estimate of the cost of such work, made as provided by s. 11-08, taking into consideration in each case any injury which in the opinion of the commissioner, may result to each lot or pieces of land from such improvement; and in case the benefits, in his opinion, amount to less than the cost of the improvement, the balance shall be paid out of the funds appropriated for such purpose; and said commissioner shall endorse his decision and assessment in every case on the estimate of the cost of such improvement filed in his office. (*S. 9, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.*)

11-10. Alteration of Street Grade. In all cases in which the grade of any street has been permanently established by ordinance since Feb. 20, 1852, or shall hereafter be so

established, and, after such permanent establishment thereof, and after such street shall have been actually graded to such established grade, the grade so established has been or shall be altered by the city, the owner of any lot or parcel of land which may be affected or injured in consequence of such alteration of grade shall be entitled to compensation therefor; and it shall be the duty of the commissioner of public works, before ordering to be done the work of actually changing such established grade by excavating or filling such street to the new grade as so altered, and at the time of making his assessment of benefits as provided in s. 11-09, to consider, determine and assess against the lots which he may deem benefited by the proposed improvement, to the amount of such benefits, the damages, costs and charges, including the cost of such improvement -- arising from such alteration of grade to the owner of any lot, parcel of land or tenement, which may be affected or injured in consequence thereof, taking into consideration in each case any advantages and benefits which may be conferred thereby upon such lot, parcel of land or tenement, in common with other property on the street affected by such grade; and the excess of the said damages, costs and charges over the benefits assessed as provided in s. 11-09, shall be paid out of the fund appropriated for such purpose; provided, that no owner of any lot, parcel of land or tenement, who shall personally or by his authorized agent have signed a petition asking for such alteration of grade, or a petition asking for the grading of a street in conformity with such altered grade, shall be entitled to compensation, but every such owner shall be deemed thereby to have waived and relinquished all claim to compensation for any injury in consequence thereof; and no damages, costs or charges arising to such owner from such alteration of grade, shall be assessed or paid to such owner. (*S. 10, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.*)

11-11. Review of Assessments. As soon as any assessment of benefits or damages, or both, shall be made, as in the preceding sections of this chapter, the said commissioner shall give notice to all parties interested, by advertisement for not less than four days in the

official papers of the said city, that such assessment has been made and is ready for inspection in his office, and that the same will be open for review and correction by the said commissioner, at his office, for not less than four days after the first publication of such notice, during certain hours, not less than two hours of each lay day, and that all persons interested will be heard by said commissioner in objection to such assessment, and generally, in the matter of such review and correction. It shall be sufficient to state in such notice, in brief, what such assessment has been made for, and in what locality, and no further notice or publication of such assessment shall be necessary. During the time mentioned in such notice, the said commissioner shall hear objections and evidence, and he shall have power to review, modify and correct such assessment, in such manner as he shall deem just, at any time during such review, and for three days thereafter; and thereupon said commissioner shall endorse such corrected and completed assessment upon or annex the same to the estimate of the cost of such improvement, made and filed in his office, as provided in section 6, of this chapter [s. 11.08], as amended, and shall file a duplicate of such estimate and assessment in the office of the city clerk, who shall lay the same before the common council at its next meeting; and thereupon the common council may confirm or correct said assessments, or any of them, or may refer the same back to the commissioner of public works for revision and correction; and the said common council, and the said commissioner of public works shall respectively have the like powers, and perform the like duties, in relation to such assessment, and any subsequent assessment made pursuant to such reference by the common council, as are prescribed and conferred in relation to the first assessment. (*S. 6, Ch. 388, L. 1889.*)

11-15. Street and Highway Widths. 1. COUNCIL APPROVAL. The common council of the city of Milwaukee where it is deemed that the general welfare will be promoted thereby may establish street and highway widths in excess of those actually and presently in use and may adopt plans showing the location and width proposed for any future street or highway.

2. PUBLICATION. Such streets or highways or plans therefor shall be shown on a map prepared for that purpose and filed in the office of the register of deeds and notice thereof shall be published in a newspaper of general circulation in the territory in which such streets or highways are located, once each week for 3 successive weeks, and shall be posted in at least 3 public and conspicuous places along each such street or highway. Such notice need not contain legally accurate descriptions but shall briefly set forth the action of the common council in language adequate to apprise the various property owners of the effect of such action.

3. MAP CHANGES. The common council may from time to time thereafter upon publication of notice alter, supplement or change the same and such alterations, supplements or changes shall be similarly filed in the office of the registrar of deeds.

4. ACQUISITION. The excess width of streets or highways actually or presently in use or the right of way acquired for those planned as aforesaid need not immediately be acquired for highway or street purposes but may be acquired at any time, in whole or in part, by the city of Milwaukee, provided, however, that no part shall be acquired any less than the full extent, in width, of the excess width to be made up of land on the same side of such highway or street nor for less than the full distance in length of such excess width lying within the limits of contiguous land owned by the same owner; provided, further, that any land so acquired, whether the excess width is acquired, for the length of the highway or street or not, shall at once become available for public highway purposes. The power to acquire such right of way or additional width of highway or street in portions as provided herein may be exercised for the purpose of acquiring such lands on advantageous terms to the city of Milwaukee, whether by reason of availing itself of any favorable offer of such land, or by reason of avoiding additional cost thereof on account of the erection or making of contemplated improvements thereon by the owner thereof, or by any other reason. (*S. 1 thru 4, Ch. Ord. 60, File #50607-a Feb. 20, 1933.*)

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11-16. Center of Roadway to Determine Assessments. Hereafter in any city of the first class, however incorporated, when any street improvement of any kind is made in any such city and any portion of the cost thereof is assessable as benefits upon the abutting property, in assessing for street work, the center line of the roadway shall be the dividing line between abutting properties on the opposite sides of streets, regardless of whether or not the center line of any such roadway is on the center line of the street. (S. 959-35h, Stats. 1919.)

11-17. Notice to Public Utilities of Street Work. Hereafter in cities of the first class, whether incorporated under general law or special charter, whenever such city is contemplating paving any street therein with a pavement laid on a concrete foundation, if any such city shall give notice in writing through its commissioner of public works to any public service corporation, including telephone companies, electric light companies, telegraph companies, gas companies, and water companies, as well as street car companies, three months in advance of the actual beginning of work on the said pavement, to the effect that said pavement is going to be laid, then any such company is hereby required to lay all conduits, mains, pipes, wires or other underground construction in said street prior to the beginning of said pavement. After the said pavement is laid, the said city shall have the right to refuse to permit any such telephone company, telegraph company, gas company, electric light company, street car company, or other company to open any such pavement for the purpose of laying new mains, conduits or the installation of any other new equipment therein. (S. 959-35i, Stats. 1919.)

11-18. Effect of Invalid Street Grade Alteration. In every city of the first class, within this state, whether such city is organized under general or special charter, whenever the grade of any street of such city has been or shall hereafter be permanently established by ordinance, and such street actually graded to conform to such established grade, and the grade so established has been or may hereafter be changed or

altered by such city; and whenever by any omission or error or other cause, the proceedings for such change of grade shall be determined to be without authority of law, illegal or unauthorized, the benefits accruing to any lot or parcel or land in consequence of the changed grade, shall be deducted in the estimation of damages. (S. 1, Ch. 214, L. 1901.)

11-19. Streets: Grading; Vacation. 1. Whenever the common council of the said city of Milwaukee shall have changed and altered the established grade of any street therein in the manner provided by law, after such street shall have been once graded and paved to the established grade, and any part or portion of said street shall have been improved and brought to the grade so altered and changed, it shall be, and is hereby made the duty of the said common council, to cause the remaining portion of said street, the grade of which has been so altered and changed, to be graded and graveled or paved to such altered and changed grade, within one year from the time of the improvement of any portion of said street, to the grade so changed and altered.

2. It shall not be necessary to give any notice except by publication in the official newspapers of said city, in the manner provided by law, to any person, of the vacation or proposed vacation of any street, alley or public place, under the provisions of section 22, of chapter 6, [S. 22, Subch. 6, Ch. 184, L. 1874], of said charter. (S. 1, 2, Ch. 374, L. 1889.)

11-20. Financing of Special Assessments. 1. CITIES OF FIRST CLASS. Hereafter in cities of the first class, however incorporated, no special assessment certificates shall be issued to contractors for the grading, graveling, macadamizing, or paving of streets or alleys, or the grading and laying of sidewalks, or the paving of gutters and the installation of curbing, nor for the digging or excavating or building of any sewers, or for any other street improvement whatever, but the contractor shall be paid as provided in s. 959-35c of Wis. Stats. of 1919.

2. PAYMENTS TO CONTRACTOR.

Hereafter any city of the first class, however incorporated shall pay in cash any contractor when he shall have completed and performed any contract for any work specified in s. 959-35b of Wis. Stats. of 1919, and the said work shall have been accepted by the proper city authorities, but this provision shall not be construed to mean that the contractor shall be paid in full, but all laws now in force for the reservation of guaranty funds and reserve funds guaranteeing workmanship and material shall remain in full force and effect. This provision shall not be construed as in any way affecting the laws now in force and effect granting the right to the proper officers to make payments upon estimates; provided, however, that no contractor shall be paid during any year for any portion of the work assessable to abutting property unless the contract shall have been completed and the work accepted on or before the 10th day of November in said year. The assessable portion of such work performed under a contract which has been completed and accepted after said date shall be paid for at any time subsequent to May 1st of the succeeding year.

3. TO ISSUE BONDS. Any city of the first class, however incorporated, is authorized to issue bonds known as street improvement funding bonds for the purpose of financing the assessable portion of the cost of constructing sewers and making other street improvements in amounts sufficient to cover such portion of the estimated cost of doing said work. Such bonds shall be issued and sold in the same manner as other bonds of such city are issued and sold, except that it shall not be necessary to include such bonds in the budget of such city, nor shall it be necessary to submit the question of their issue to a referendum vote of the electors of such city. In case any such city, in the opinion of the city comptroller, shall have enough cash on hand in its general treasury to finance the improvements mentioned in the preceding sections, it shall not be necessary for said city to issue any bonds mentioned herein, and if any such city, in the opinion of the city comptroller, shall have enough cash in its general treasury to finance part of said improvements, it shall be necessary for the said city to issue only enough bonds, as provided for herein, to finance the remainder of

the same. The bonds provided for herein shall be serial bonds payable at any specified time within six years, and shall bear interest at the rate of not to exceed six per cent per annum, payable either annually or semiannually as the common council may deem best. The said bonds shall be a direct obligation of the city and the full faith and credit of the city shall be pledged for their payment and no such bonds shall be issued unless at or before the time of issuing the same the council shall levy a direct annual tax sufficient to pay the principal and interest thereon as they fall due.

4. BONDS TO COVER. When improvements shall have been paid for in whole or part by such city without issuing such bonds, like bonds may later be issued at any time that it shall be necessary in the opinion of the city comptroller to refund to the general treasury of said city the amount of all or any part of the unpaid special assessment installments not yet due; but when such refunding bonds shall be issued the principal amount thereof due in any year shall not exceed the sum of such deferred installments which shall become due in such year. (*Ch. 220, L. 1933.*)

5. INSTALLMENT PAYMENTS. In any such first class city, the amounts and time of payment of special assessments shall be as provided in applicable code provisions.

6. ASSESSMENTS TO PAY FOR BONDS. Upon the collection of any and all special assessments and interest, as provided in the preceding sections, the moneys collected shall go first to repay any cash used out of the general city treasury, if such has been the case, and the remainder of the money so collected shall constitute a fund with which to pay the principal and interest on bonds issued under the provisions of s. 959-35d of Wis. Stats. of 1919, as they fall due. In any year in which there shall be on hand moneys derived from special assessments on account of work done during the preceding year or years, sufficient to pay the whole or a part of the principal falling due on such bonds, it shall be unnecessary for the city to collect more taxes for the payment of the principal on said bonds than are necessary to make up the difference between the amount which will become due in the ensuing year and the amount so available for payment of the principal and interest on

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said bonds. Any such city shall have a first lien on the premises against which any such special assessment is levied or to be levied from the time the contractor is paid in cash to the full extent of all unpaid installments for doing said work and the interest thereon.

7. COUNCIL TO LEVY TAX. It shall be the duty of the common council in each and every year, in addition to all other taxes, to levy a tax which shall be sufficient to cover the special assessments for grading, graveling, macadamizing, or paving of streets or alleys, or the grading and laying of sidewalks, or the paving of gutters and the installation of curbing, or the digging or excavating for or building of any sewers, or for any street improvements whatsoever entered or to be entered on the tax roll of said year and which it is estimated will remain unpaid. (*S. 1, Ch. Ord. 200, File #49-1863-b, June 15, 1954. 11-20-5 rc. File #910799, Aug. 2, 1991; Oct. 21, 1991.*)

11-22. Appeals of Special Assessments. The owner of any lot or tract of land or tenement, who feels himself aggrieved by such assessment as confirmed by the common council, as to the amount of benefits thereby adjudged to accrue to him by reason of any improvements charged against his lot or parcel of land, or the amount of damages, costs and charges arising to such owner from an alteration or grade, may, within 20 days after such confirmation by the common council, appeal therefrom to the circuit court of Milwaukee county; and such appeal shall be taken, tried and determined, and bonds for costs shall be given and costs awarded therein, in like manner as in cases of appeal to the said circuit court provided for in ch. 6 of this act [subch. 6, ch. 184, L. 1874]. Such appeal shall not affect the rights of the contractor, or the proceedings in reference to his contract, but the certificate against the lot or parcel of land in question shall be given as if no appeal had been taken; and in case the appellant shall succeed, the difference between the amount charged in the certificate and the amount of benefit finally adjudged shall be paid by the city out of the funds appropriated for such purpose to the appellant, but not until he shall have done the work in question, or have paid the certificate issued for doing the same. The amount assessed by the commissioner of public

works, or finally adjudged on appeal, for damages, costs, and charges arising from an alteration of the grade in excess of the amount charged against property deemed benefited, shall be paid by the city out of the funds appropriated for such purpose to the person or persons thereto entitled, within one year after the confirmation of the assessment by the common council, or after the final judgment therefor rendered by the court on appeal, as aforesaid; provided, that the time during which an appeal from such judgment may be pending in the supreme court shall not be deemed part of the year so limited. (*S. 11, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.*)

11-23. Appeal Exclusive Remedy. The appeal given by the last preceding section from the assessment of the commissioner of public works as confirmed by the common council, to the said circuit court, shall be the only remedy for the recovery of any damages, costs and charges arising from any alteration of grade by the said city, or sustained by reason of any proceedings or acts of the said city or its officers, in the matter to which such assessment of damages or benefits relates; and no action at law shall be maintained for such damages or injuries, whether arising from an alteration of grade or otherwise. (*S. 12, Subch. 7, Ch. 184, L. 1874.*)

11-24. Snow Removal. 1. WHEN SPECIALLY ASSESSED. Whenever snow shall fall upon any of the sidewalks of the said city, so that the same shall be encumbered thereby, and such snow shall not be removed therefrom within twenty-four hours after the snow shall have ceased falling, the said commissioner shall have power, forthwith, without notice or letting, to employ persons or to make contract or contracts to remove such snow from any sidewalk or part of sidewalk in said city, where they shall by resolution declare it to be necessary, and to assess the cost thereof against all lots, parts of lots and parcels of land abutting on such sidewalk or part of sidewalk in the manner hereinafter directed. (*S. 15, Subch. 7, Ch. 184, L. 1874.*)

2. REPORT TO CITY CLERK. The council of every city incorporated under any special charter may cause the sidewalks within such city to be kept clear of snow or ice and

the expense thereof to be charged as a special tax against the abutting lots or parcels of land, when the owner or occupant fails to keep the walk clean. It shall be lawful for the council of such city by ordinance to designate some officer whose duty it shall be to keep the sidewalks clear of snow or ice in all cases where the owner or occupant of abutting lots or parcels of land fails to do so. Such officer shall act under such rules or ordinances as the council may prescribe, and the expense of clearing the snow or ice from sidewalks in front of any such lot, and in case of a corner lot, along the side thereof, shall be a lien thereon; and said officer shall keep an account of such expense and make a report of the same to the city clerk, who shall enter the amount therein charged to each lot or parcel of land in the next or subsequent tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other city taxes upon real estate, and no lot or parcel of land in such city shall be exempt from the payment thereof. This section shall not be construed as prohibiting the city authorities from imposing a fine or penalty, in addition to collecting such expenses, for neglecting to keep such sidewalks clear of snow or ice. (S. 926-14, Stats. 1919.)

11-25. Street Cleaning and Repair. It is the duty of the commissioner of public works with the consent of the aldermen of the proper district, unless otherwise provided by ordinance of the common council, to cause the streets, alleys and sidewalks in the city to be kept in proper repair, and in a cleanly and wholesome condition at all times, and for this purpose he is empowered with the consent of the aldermen of the district in which such street, alley or sidewalk is located, to employ the necessary labor, or to contract pursuant to law, for such cleaning and repairing as he may deem necessary for the safety and health of the people, the expense of such cleaning and repairing, except of sidewalks, shall be chargeable to and paid out of the funds appropriated for such purpose; and the said commissioner is also hereby empowered to cause sidewalks to be repaired, or to be taken up and relaid with new materials or with part new and part old materials, and to be restored to grade and to assess the expense thereof against the lot or piece of land in front of which such work may be done, in the manner provided by s. 11.28. (S. 12, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)

11-26. Repair of Unsafe Sidewalks and Driveways. Whenever any sidewalk, or part of any sidewalk, or driveway approach, shall, in the judgment of the commissioner of public works, declared by resolution to that effect, be in a dangerous condition to persons passing over it, for want of being repaired or remade, or on account of being above or below the grade established by the common council, the said commissioner shall have power to order the same to be forthwith repaired or remade, and thereupon forthwith to employ fit persons to repair or remake the same for a fair price, and charge the expense thereof to the lots, parts of lots, or parcels of land abutting thereon, by special assessment; and such assessment shall be a valid charge and lien upon such lots, parts of lots or parcels of land, without any estimate, notice, letting or other proceeding preliminary to the closing of such work, except the resolution of said commissioner so declaring such sidewalks or driveway approaches to be dangerous. (Am. Ch. Ord. 484, File #79-1575, Dec. 21, 1979.)

11-27. Removal of Nuisances. Whenever any nuisance, source of filth, or cause of sickness shall be found on private property, or in the alley in front or rear of such property, the common council, or the commissioner of building inspection, may order the owner or occupant thereof, at his own expense, to remove or abate the same within 24 hours from the date of the order, or within such time as may be named in said order; and if the owner or occupant shall refuse or neglect so to do, within the time named in said order, then the commissioner of public works or commissioner of building inspection shall forthwith cause said nuisance, source of filth, or cause of sickness to be abated or removed at the expense of the lot or tract of land in front or rear of which, or upon which such nuisance, source of filth, or cause of sickness may be found. (S. 11-27 am, Ch. Ord. 549, F#85-3, May 14, 1985; eff. July 30, 1985.)

11-28. Special Assessment Accounting. In all cases mentioned in ss. 11-24-1, 11-25, 11-26 and 11-27, wherein the commissioner of public works is authorized to do any work or cause the same to be done, and to charge or assess the expense thereof upon the lots, parts of

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lots, or parcels of land upon or in front or rear of which such work may be done, the payment of the expense of such work shall be first made by any one of the methods or a combination thereof authorized by s. 66.54 (2), Wis. Stats. It shall be the duty of said commissioner to keep a strict account of the labor expended upon such work in front or rear of each such lot, part of lot or parcel of land, and the cost thereof and to make a report to the comptroller stating and certifying the description of the lots, parts of lots or parcels of land, in front or rear of, or upon which work chargeable thereto under any of said sections shall have been done by said commissioner, under authority thereof, the nature of the work so chargeable to each lot or parcel, and the amount actually expended therefor, and the comptroller shall, at the time of making his annual report to the common council of the lots or parcels of land subject to special tax or assessment, required by s. 3-18-3, include therein the said lots or parcels of land so reported to him by said commissioner of public works, with the aggregate amount chargeable thereto, according to such reports, for work done during the preceding year, under said ss. 11-24-1, 11-25, 11-26 and 11-27; and such amounts shall be levied on the lots or parcels of land respectively, to which they are so chargeable, in like manner as other special taxes are levied in said city. (S. 13 Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)

11-29. Procedure When Commissioner is Interested in Property. If any commissioner of public works shall in any case be directly interested in any property liable to be assessed with benefits on account of any public improvements, or entitled to an assessment of damages arising from an alteration of grade, the common council shall in such case appoint some disinterested person to act in his stead; and the person so appointed shall, for the particular case in which he is so appointed, possess all the powers and authority of, and be subject to all the duties and restrictions imposed by law upon the commissioner of public works. (S. 20, Subch. 7, Ch. 184, L. 1874.)

11-30. Removal of Noxious Weeds or Plants. The commissioner of public works, under direction of the common council, shall have

power to make contracts for the removal of Canada thistles and other noxious plants and weeds from streets, alleys, and public grounds in any ward of the city; the cost thereof to be chargeable to the funds appropriated for such purpose. (S. 14, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)

11-31. Street Cleaning Not to be Assessed. From and after the first day of January, A.D. 1918, in cities of the first class, however incorporated, the cost of flushing, watering or sprinkling streets with water shall not be assessed to the lots, parts of lots or parcels of land in the front of which such work may be done. The cost of such work shall be paid out of the general city fund of such city. (S. 959g, Stats. 1917.)

11-32. Oiling of Streets; Removal of Noxious Weeds. 1. The entire cost for street oiling shall be charged to such fund as may be set up in the budget for that purpose, and no part thereof shall be assessed upon the real estate abutting the street or portions of the street oiled.

2. The cost for the destruction of noxious weeds and the removal of earth, stones, cinders, or other materials or debris from streets, sidewalks or alleys shall be assessed against each tract of land, chargeable therewith, pursuant respectively to ss. 66.96 to 66.98, Wis. Stats. and s. 11-28 of this charter. (S. 1, Ch. Ord. 240, File #58-1352-a, Aug. 1. 1958.)

11-33. Shade Trees. The common council shall have power to order by resolution, adopted by a vote of the majority of the members elect, the planting and preserving of shade trees in the streets of the city, at the cost of the lots, parts of lots and parcels of land, fronting or abutting on such improvements, and in pursuance of such resolution the commissioner of public works shall prepare plans and specifications and require such work to be done by the owners of property in front of which such work is to be done, and in default thereof to let the work by contract and assess the cost against such lots, parts of lots, and parcels of land and all the provisions of ch. 184, L. 1874, in relation to notices, proposals, contracts, payments and certificates for street

improvements shall be applicable to the work provided for in this section, but no assessment of benefits and damages shall be made in such cases and no notices in relation thereto shall be published; provided, however, that no such resolution for the planting or preserving of shade trees in the streets of the city shall be passed by the common council unless a petition therefor shall first be presented to said common council signed by the residents of the city owning a majority of the feet in front of all the lots fronting upon such proposed improvement owned by the residents of such city. (S. 28, Ch. Ord. 310, File #64-4089, Apr. 6, 1965.)

11-34. Public Improvements on Concrete Foundations. Whenever in any city of the first, second or third class, however incorporated, a contract for making any permanent public improvement on a concrete foundation has been let, the expense whereof, or any portion thereof, shall be chargeable to adjacent lots or lands, and specifications together with an estimate of the cost of such work have been prepared and filed, and the necessary assessments of benefits and damages against the several lots, parts of lots or parcels of land which may be deemed benefited or damaged by the proposed permanent improvement shall have been made and approved or confirmed, and the contract for such improvement shall have been entered into, the commissioner of public works, or if there be no such board, the common council may, within two weeks after the letting of such contract, by resolution determine that any owner or owners of any lots, parts of lots or parcels of land which may be assessed for benefits on account of such improvement, shall have the option, at any time within thirty days after the passage and publication of such resolution, to apply for an extension of the payment of such assessment of benefits to his or their property by paying therefor in equal annual installments for such a period as the commissioner of public works or the council may in such resolution determine, not less than five and not exceeding ten years, the first installment to become due and payable, without interest, immediately after the completion of the first tax sale succeeding the date of the bond hereinafter provided for. (S. 959-30, Stats. 1919.)

11-35. Extension of Payments. Any owner or owners of any lots, parts of lots or parcels of land which may be assessed for benefits on account of any such permanent improvement may, within thirty days after the publication of such resolution, make application to the commissioner of public works, or, if there is no such commissioner, to the city clerk, for the extension of the payment of such assessment of benefits to his or their property, and such application shall contain an agreement that in consideration of the privilege granted by such resolution the applicant will make no objection to any want of power, illegality or irregularity in regard to the assessment against his property, and will pay the same in equal annual installments, together with interest upon the unpaid balances at a rate not exceeding six per centum per annum and for such a term of years as in such resolution may have been provided. Such application shall also contain a brief description of the property and a statement that the applicant is the owner thereof. After the expiration of the time within which such application may be made an assessment list shall be prepared containing a description of each piece of property the owner or owners of which have agreed to pay for such improvement in installments, showing the amounts chargeable to such property, together with the necessary columns to which the installment assessments shall be extended, the amount of each installment and interest, and when payable, and a copy of each such assessment list shall be filed with the city clerk, the city comptroller and the city treasurer. In all cases where such agreement shall not be signed within the time limited the entire assessment shall be payable in the manner and at the time now provided for the payment of assessments on account of street or other improvements. (S. 959-31, Stats. 1919.)

11-36. Properties Owned by Corporations. Whenever in any city a special assessment against property shall have been duly ordered and made, and any such property shall be owned or operated by or on behalf of any corporation doing business in this state, a certified statement of the amount of such assessment and of the time when ordered may be signed by the city clerk and certified by him

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under the seal of the city as having been duly and legally made, and upon the filing of such certificate in the office of the clerk of the circuit court of the county in which such property is located the same shall be a lien upon the property of any such corporation in such county and may be foreclosed by action in such court in the same manner as liens of mechanics and others upon real property may be foreclosed therein. The certified statement of such lien, so filed, signed and sealed, shall be prima facie evidence of the legality and correctness of all prior proceedings in the matter of such assessment and of the legality and validity of such assessment. (S. 959-38, Stats. 1919; S. 128, Ch. 242, L. 1921.)

11-37. Resurfacing. The common council may upon the recommendation of the commissioner of public works authorize the furnishing of materials and doing the work for the resurfacing of macadamized streets or any type of alley, or both streets and alleys, directly by the city without the making of an estimate or the letting of a formal contract. The entire cost of such resurfacing to the center of the roadway, streets or alleys, shall be assessed against the abutting property, provided, however, that on the long side of corner lots said assessment shall not exceed 1/2 of the entire cost of such resurfacing. Such assessment shall be placed on the tax roll and collected as other city taxes are collected. Such assessment shall be payable in the manner as provided in s. 959-35e of the Wis. Stats. of 1919, which by s. 312 of ch. 242 of the laws of Wisconsin for 1921 was withdrawn from the statutes without repealing the same and continued in force. The cost of the resurfacing of such street or roadway assessed against and paid by the abutting property owners thereon shall, when a permanent pavement or improvement is thereafter constructed on such street or roadway, constitute a credit or offset in favor of such abutting property owner upon the assessment limit as provided by law for the construction and payment thereof of permanent improvements and pavements. (S. 27, Ch. Ord. 310, File #64-4089, Apr. 6, 1965.)

11-38. Petition for Improvements. 1. COMMON COUNCIL REQUEST. In any city of this state of the first class whether organized under the general law or under special charter the common council may, when petitioned so to do, order the paving or repaving of streets or the repairing of streets by resurfacing with crushed stone or crushed stone and gravel and repairing of gutters and the curbing of sidewalks in said city.

2. PETITION. Said petition must be signed, before being presented to the common council, by residents of said city owning a 2/3 majority of the feet in front of all the lots fronting upon such proposed improvements, owned by residents of such city, and for that purpose, every person in the actual possession of any lot or parcel of land fronting upon such improvements, under a contract in force for the purchase thereof from the owner, shall be held to be a freeholder within the meaning of this act, and to be the owner of such real estate for the purpose of petitioning as owner thereof. Every person signing such petition as a resident, or as an owner of property, shall be required to write after his signature thereto a brief description of the property so owned by him, and of the place of his residence in said city, and to annex thereto an affidavit that he is such resident and owner, and thereupon he shall be taken to be such resident and owner, and such petition shall be as valid and have the same effect as if such person were the owner of such property, and a resident of the city or ward [district], as stated in his affidavit, although in fact it should thereafter appear that he was not such owner or resident. Said petition shall describe the kind of pavement to be constructed or the kind of crushed stone or crushed stone and gravel to be used in the making of said improvements, and no other material shall be used than that described in said petition, and the manner of doing said work and the making of said improvements.

3. OWNERS ASSESSED. The expense of such repairing to the center of any street and the repairing of any gutter and the curbing of any sidewalk shall be chargeable to and payable by the owner or owners of the lot or lots or parcels of land in front of which said work shall be ordered, to the amount which said work shall be adjudged by the commissioner of public works to benefit such

lots. And the expense of all such improvements or work across streets at their intersection with streets and alleys, excepting curbing, and the expense of all such improvements or work across public grounds, and to the middle of streets adjacent to public grounds, and the repairing of all crosswalks and all expense in excess of the benefits, shall be paid out of the general city fund. Provided, however, that in streets where there is a plot or park in the center, the owners of abutting property opposite such plot or park shall pay and be liable for the costs of said repairing, and the curbing up to the curb line of said plot or park, to the amount which such work shall be adjudged by the commissioner of public works to benefit such lots.

4. NOTICE. Upon the presentation of said petition, the common council may order the commissioner of public works to make the improvement petitioned for. Thereupon the commissioner of public works of such city, shall cause to be made an estimate of the cost of such work, and shall put the same on file in its office; and such estimate shall be open to the inspection of any party interested. And the commissioner of public works shall then proceed to cause such improvement to be made in the manner provided by law for other public work in such city; and the contract entered into for the doing of the same shall require the contractor to receive certificates upon or against the several lots, parts of lots or parcels of land which may be assessed, in front of which said work shall be ordered, to apply in payment of the contract price. As soon as said work shall have been done and accepted by the commissioner of public works said commissioner shall determine the proportionate expense properly chargeable to each lot, part of lot or parcel of land subject to contribute to the payment of the same. And the said commissioner shall give notice to all parties interested by advertisement for not less than four days in the official papers of the said city that such assessment has been made and is ready for inspection in its office, and that the same will be open for review and correction by the said commissioner at his office for not less than 4 days after the first publication of such notice, during certain hours, not less than 2 hours of each lay day; and that all persons interested will be heard by such commissioner

in objection to such assessment, and generally in the matter of such review and correction. It shall be sufficient to state in such notice in brief what such assessment has been made for and in what locality, and no other notice or publication of such assessment shall be necessary. During the time mentioned in such notice the said commissioner shall hear objections and evidence, and he shall have power to review, modify and correct such assessment at any time during such review and for 3 days thereafter; and thereupon said commissioner shall endorse such corrected and complete assessment or annex the same to the estimate of the cost of such improvement. And after such assessment has been made as aforesaid, the commissioner of public works shall issue to the contractor or contractors a certificate or certificates stating the amount assessed and chargeable to each lot or parcel of land, and the said amount shall be entered against such lot or parcel of land in the tax warrant for the year in which the assessment is made, and collected in the same manner as other taxes.

5. APPEALS. The owner of any lot or tract of land who feels himself aggrieved by such assessment as to the amount of benefits thereby adjudged to accrue to him by reason of any such improvements charged against his lot or parcel of land may, within 20 days after such corrected and completed assessment shall have been endorsed or annexed to the estimate of cost of such improvement, appeal therefrom to the circuit court of the county in which said city is located; and all provisions of law now or hereafter in force in such city in reference to appeals from local assessments, shall be applicable to the taking, trial and determination of such appeal. Such appeal shall not affect the rights of the contractor or the proceedings in reference to his contract, but the certificate against the lot or parcel of land in question shall be given as if no appeal had been taken, and in case the appellant shall succeed, the difference between the amount charged in the certificate and the amount of the benefit finally adjudged shall be paid by the city out of the general city fund to the appellant, but not until he shall have paid the certificate issued for doing the same. (*S. 1 thru S. 5, Ch. 241, L. 1903.*)

11-39 Improvements And Special Assessments

11-39. Arterial Highway Resurfacing. Hereafter whenever the city of Milwaukee orders the resurfacing of any street not upon a concrete foundation, which street has been designated as an arterial highway either by the state, city or federal government authorities, the commissioner of public works is authorized to take said designation into consideration in assessing benefits against the abutting property and for that reason reduce the assessments against abutting property and increase the proportion to be paid out of city funds. (S. 1, Ch. Ord. 33, File #41473, June 3, 1929.)

11-40. Exempt Real Estate. Real estate exempted from taxation by the laws of the state shall be subject to special taxes as other real estate under this act. (S. 12, Subch. 20, Ch. 184, L. 1874.)

11-41. Effect on Cemeteries. Nothing in this act shall be considered or construed as repealing or modifying the charter or any existing law pertaining to, or in any way affecting the powers, rights, interests, property exemptions or privileges, of any corporation, society or association, now owning or using for cemetery or burial purposes any land within the limits described in section one of this act [ch. 449, laws of 1891]; and any provisions of the charter or ordinances of the city of Milwaukee, and acts amendatory thereof, and any general statutes of the state, prohibiting the location or use of lands for cemetery or burial purposes

within the limits of the city of Milwaukee, or relating to the taking of lands for any public use, or to the opening, vacation or improvement of streets, alleys or highways, or to any other public work or improvements by said city, shall not have reference or application to such corporation, society or association, or any of the lands owned and used by them for cemetery or burial purposes; provided, however, any such corporation, society or association, if it request the same, shall be furnished by said city, upon such terms, and regulations as may be just, connections with its water and sewerage systems, and the service of its police and fire departments. (S. 3, Ch. 449, L. 1891.)

11-42. Cemetery Land Subject to Special Assessments for Street, Sewer and Water Pipes. All lands owned or used within the limits of any city of the first or second class by any corporation, society or association now or hereafter owning or using such lands for cemetery or burial purposes, shall be subject to all special assessments for the improvement of streets, or construction of sewers and the laying of water pipes in front of or adjoining the same, in the same manner as other lands abutting on such streets. (S. 1, Ch. 93, L. 1897.)